

Centre for Competition Law and Economics

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To
The Secretary
Competition Commission of India
9th Floor, Office Block – 1
Kidwai Nagar (East)
New Delhi - 110023

4th March, 2024

Subject: International conference on ‘Competition concerns in the AdTech industry in India’ conducted by CCLE in collaboration with Bennett University

Dear Sir/ Ma'am,

This is to inform that we had organized an international conference on **‘Competition concerns in the AdTech industry in India’** in collaboration with **Bennett University** at the university campus on 9th October, 2023.

The conference was held under the mentorship of **Prof. (Dr.) Pradeep Kulshreshtha**, Dean, School of Law, Bennett University and was convened by **Prof. (Dr.) Versha Vahini**, Bennett University.

Some of the panelists at the conference included:

1. **Christian Bergqvist**, Associate Professor, University of Copenhagen
2. **Rajesh Ranjan**, Director - Government Affairs, Microsoft
3. **Sumit Jain**, Founding Director, CCLE
4. **Nishi Kant Bibhu** (Moderator), Assistant Professor, Bennett University

Please find attached the memorandum of the conference along with the stakeholder comments.

Please let us know if you have anything to discuss and we will be looking forward to meeting you in-person.

Best regards,

Sumit Jain

Founding Director

Centre for Competition Law and Economics

www.icle.in

Contact No. +91 93116 83349; +91 81072 87270

Email ID: centrecomplaw@gmail.com; contact@icle.in

**Memorandum of the International Conference conducted by the
CCLE in collaboration with Bennett University on Competition
Landscape in Advertisement Technology**

Date: October 9th, 2023

Time: 2:30 PM – 3:30 PM

Location: Bennett University, Greater Noida

Panelists: Christian Bergqvist (Associate Professor of Law at the University of Copenhagen), Rajesh Ranjan (Director, Government Affairs and Public Policy, Microsoft), Sumit Jain (Founding Director, CCLE), Nishi Kant Bibhu (Assistant Professor, Bennett University)

Moderator: How do you think Google is taking advantage of its dominant position?

Panelist 2: There are no clear answers. Google maintains that it is not a dominant player, however, the prevailing sentiment among participants is that Google's dominance is evident and warrants closer scrutiny.

Panelist 4: Google generates an 'ecosystem'. Most of the services offered by the company complement each other thereby generating a strong integration effect. This may sometimes result in leveraging one's own position.

Moderator: Is Google's self-preferencing behaviour a factor that can be leveraged against it in the big trial of Google v. DOJ?

Panelist 2: Self-preferencing is not deemed to be inherently anti-competitive. Nevertheless, there is a possibility of this practice being abused in the future. It should also be kept in mind that businesses,

including Google, operate with the primary aim of generating revenue, and this should not be used against them. If you list a product and put it on top, it represents so many benefits.

Panelist 4: This argument will certainly be made against the company. However, it yet remains to be seen whether the Court will consider this practice outrightly anti-competitive, or whether there would be some effects-based test approach.

Panelist 3: Self-preferencing itself may not constitute abuse. Many times, it happens that a company ends up recommending its own product to the end user simply because it is the most effective one.

Moderator: Is divestment the way ahead for regulating the Big Tech?

Panelist 2: It makes no sense for Google to divest. In the case of private enterprises, being dominant in the market itself is not illegal. Instead, the focus should be on addressing any potential abuse of that dominant position.

Panelist 4: It would be too drastic as a remedy to undertake. There are various other ways like passing cease-and-desist orders and imposing behavioral remedies to ensure compliance.

Moderator: How does Google's presence in the search engine market affect its behavior?

Panelist 2: Google's algorithm is designed to provide relevant results, but the manipulation of users through algorithmic practices could potentially lead to anti-competitive behavior.

Panelist 4: The company has already been identified once in India to manipulate search results. The search engine lies at the core of Google's business.

Panelist 3: We at Microsoft are regularly working with the government on regulation. It is in the interests of all to put some kind of restriction on piracy, harmful content and unsafe internet.

Panelist 2: Almost two-thirds of ad spending is digital. Newspaper and magazine ads revenue is going down. The trend is shifting from searchable ads to non-searchable ads reflecting the changing dynamics of digital advertising. Companies like Google act as intermediaries, providing ads to content creators on the internet. There are two American cases, and three-four current cases. In the 2012 US case, google did disturb competition, but not in a manner detrimental to end-users' interest, explaining

why the enforcer decided not to go forward with a case. They just simply feel they could not explain the case to judge. The antitrust case against Google in the EU is also ongoing.

Moderator: What could be the role of sector-specific Regulations to address the competition concerns in the digital space?

Panelist 2: There is merit in suggesting that a separate regulator may be established to look into the business practices of the Big Tech entities. However, the broad principle has to be that dominance in itself is not illegal; it is the abuse of that dominant position that constitutes a violation. Having multiple regulators may have its pros and cons, including potential overlaps and conflicts of interest.

Panelist 3: Do we even need sector-specific law on AdTech competition law?

Panelist 2: The question can be divided into two parts, i.e. do we need a sector-specific regulation for the EU and second for India. Google is not such a big problem here as compared to the EU.

Moderator: What is the likelihood that the proposed Digital Competition Act (DCA) would be able to address the underlying challenges faced by Digital Markets (DMs)?

Panelist 2: We have recently enacted the DMA. Its implementation, however, is yet to be tested.

Panelist 4: The support for having an ex-ante regime is increasingly growing. However, since DM is an evolving space, a lot of tools may have to be tested before they are adopted.

Stakeholders' Voices

Stakeholder 1

The CCI missed an opportunity to look into the conduct of Facebook/ Meta when information was filed against WhatsApp. The approach could have been more proactive.

Stakeholder 2

There is a further requirement to delineate the correct jurisdiction when it comes to assessing data privacy issues. This is an area where the parties regularly approach the higher courts for redress.

Stakeholder 3

The biggest concern in the AdTech market is opacity. Google does not share the bidding data with the publishers and advertisers thereby resulting in asymmetry.

Stakeholder 4

Based on the ongoing investigations, the technologies adopted by Google have led to increased revenues for the publishers. Thus, the market is getting more efficient with the adoption of new technologies.